

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

SPERRY ASSOCIATES FEDERAL  
CREDIT UNION,

Plaintiff,

Civ. No. 10-29 (DRD)

v.

**ORDER**

CUMIS INSURANCE SOCIETY, INC.,

Defendants.

This matter, having come before the Court on the motion of Defendant, CUMIS Insurance Society, Inc. (“CUMIS”) to dismiss or stay the case based on the “first-to-file” rule and Fed. R. Civ. P. 12(b)(3); and on the motion of Plaintiff, Sperry Associates Federal Credit Union (“Sperry”), for the entry of a default judgment against CUMIS for failure to answer within the time required by Fed. R. Civ. P. 12(a)(1)(A); and the Court having considered the submissions of the parties,

IT IS on this 5th day of April, 2010, hereby ORDERED that

- (1) CUMIS’s motion to dismiss or stay this action based on the first-to-file rule is denied as moot in light of the recent remand of the first-filed action from the District Court for the Western District of Wisconsin back to a Wisconsin state court.
- (2) Sperry’s motion for default judgment is denied because it would be inappropriate to grant default against CUMIS at this point in the litigation.

(3) CUMIS shall file an answer to the Complaint within 20 days from the date of this order.

  
Dickinson R. DeBevoise

DICKINSON R. DEBEVOISE, U.S.S.D.J.